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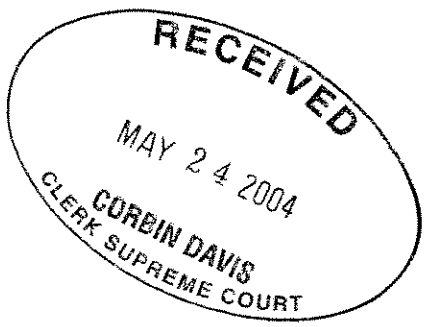

Clerk of the Court
Michigan Supreme Court
PO Box 30052
Lansing, MI 48909

Re: ADM File No. 2002-34

Dear Sir/Madam:

Please allow this letter to act as my comments to the proposed administrative order.

As a point of reference, this office is involved in many cases where summary dispositions are granted and or denied and appeals follow. While we are in complete support of changes in procedures that will shorten the time of resolution on appeal, we cannot support any changes that would potentially deny the parties an opportunity to fully and fairly present arguments to the Court of Appeals.

Specifically, it is our belief that the limitation of briefs to 20 pages [9.(C)] is both unnecessary and unwise. It is unnecessary because it seems highly unlikely that the length of appellate briefs is causing or contributing to any delay in resolution. While we have no doubt that many appellate briefs are unnecessarily long, it does not follow that all appellate issues in all cases can be adequately or properly addressed in 20 pages or less.

Many of our cases (particularly those involving insurance coverage) involve issues of first impression in Michigan. Appellate briefs can address many bases for supporting or denying summary dispositions. Insurance coverage cases can involve many different contract provisions and facts developed through discovery, all of which need to be addressed in the Court of Appeals. Further, there are many cases in which an argument must be made that the trial court was correct but for the wrong reasons.

We are particularly troubled with the proposed limitation on the length of briefs in light of MCR 7.214 (E) which permits a decision without oral argument. Given the shortened time frames of the proposed administrative order, it seems likely that more (if not most or all) of these cases will be decided without oral argument. If the length of the briefs is unduly restrictive and there is no oral argument there will be no practical opportunity for the litigants to present their positions to the Court.

We recognize that the proposed order provides for submitting the motion and briefs from the trial court. This does not, however, solve the problem in that there are many cases in which the appellate briefs must contain arguments and or cases not included in the trial court. It should be noted also that many lower court judges are, on their own, issuing orders limiting the length of briefs.

We also believe that the proposal in the rule to eliminate reply briefs (except on motion granted) is unwise. There is no logical reason to distinguish appeals from summary disposition orders and all other appeals in this regard. Appellants should have the ability to advise the Court of Appeals why something contained in the Appellee's brief is either factually or legally incorrect (especially where oral argument may not be held).

One of the basic tenets of our system of justice is that litigants must have confidence that their positions have been fully and fairly treated by the courts. To that end, we support shortening the deadlines and time frame for resolutions of appeals. Respectfully, however, we must take the position that limitations imposed on the substance of the appeal (by limiting the length of the briefs and by eliminating reply briefs) is not consistent with the obligation to give each litigant its "day in court".

Respectfully,

Kallas & Henk PC

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